United Nations A/52/497

General Assembly

Distr.: General
17 October 1997

Original: English

Fifty-second session
Agenda item 112 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Rape and abuse of women in the areas of armed conflict in the former Yugoslavia

Report of the Secretary-General

I. Introduction

1. At its fifty-first session, the General Assembly adopted, without a vote, resolution 51/115 of 12 December 1996, entitled "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia".

2. In that resolution, the General Assembly strongly condemned the abhorrent practice of rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia, and reaffirmed that rape in the conduct of armed conflict constituted a war crime and that under certain circumstances it constituted a crime against humanity and an act of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide.

3. It is important to note that, in the above-mentioned resolution, the Assembly strongly emphasized the question of individual responsibility. It reaffirmed that persons who perpetrated or authorized crimes against humanity or other violations of international humanitarian law were individually responsible for those violations and that those in positions of authority who had failed to ensure that persons under their control complied with the relevant international instruments would be held accountable, together with the perpetrators.

4. The General Assembly also reminded all States, for the purpose of accountability, of their obligation to cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, and urged all States and relevant organizations to give serious consideration to the recommendations in the reports of the Special Rapporteur of the Commission on Human Rights, in particular the recommendation concerning provision for the continuation of necessary medical and psychological care to victims of rape within the framework of programmes to rehabilitate women and children traumatized by war, as well as the provision of protection, counselling and support to victims and witnesses.

5. In conclusion, the Assembly encouraged the Special Rapporteur to continue to pay particular attention to the use of rape as a weapon of war, especially in Bosnia and Herzegovina, and requested the Secretary-General to submit a report on implementation of the resolution. The present report is submitted in accordance with that request.

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II. Action by United Nations bodies or organizations

A. Commission on Human Rights

6. The Commission on Human Rights expressed its profound concern for raped and abused women in the former Yugoslavia during its sessions in 1994, 1995 and 1996. At its fifty-third session, the Commission, in its resolution 1997/57 of 15 April 1997, expressed its continuing concern for women and children, especially in Bosnia and Herzegovina, who were victims of rape used as a weapon of war and demanded that the perpetrators of rape be brought to justice and that the victims and witnesses receive adequate assistance and protection.

7. The Special Rapporteur has remained very attentive to the issue of rape and abuse of women in the territory of the former Yugoslavia. Information on all types of human rights abuses is gathered systematically by the field offices of the United Nations High Commissioner for Human Rights in the former Yugoslavia and made available to the Special Rapporteur. In the past year, very few allegations of rape or abuse of women have been received. It should be recalled, however, that as observed by the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict, reasons for reluctance to report wartime rape may include shame and social stigma, fear of awakening bad memories, fear of reprisals, a lack of trust in the judicial system and the national legislature and the belief in the absence of remedies.[1]

B. Office of the United Nations High Commissioner for Refugees

8. The Office of the United Nations High Commissioner for Refugees (UNHCR) remains extensively involved in providing assistance and social services in the territory of the former Yugoslavia to refugees and displaced persons, giving special attention to victims of rape and abuse. UNHCR is continuing, through community-based projects managed by governmental and non-governmental organizations, to facilitate the reintegration of war-affected displaced persons and refugees through social counselling and a range of self-reliance activities.

9. During 1997, UNHCR continued to support community-based programmes organized by non-governmental organizations, some of which have been working in this sector since the beginning of the UNHCR operation in the former Yugoslavia. National organizations are given priority over international organizations, which are encouraged to phase out and hand over their programmes to existing national structures. Community services programmes are to be gradually reoriented towards income generation and skills training.

10. While UNHCR appreciates that women victims of violence may still be suffering from trauma or the physical effects of rape, UNHCR believes that, in the current context, other problems, including the reintegration of minorities and the plight of single female-headed households, have taken over in priority.

11. The Bosnian Women's Initiative, a $5 million UNHCR project funded by the Government of the United States of America and begun in 1996, currently covers over 106 micro-projects spread across Bosnia and Herzegovina. The Initiative is supporting communities and focusing on war-affected women and their families as key participants to their rehabilitative efforts.

12. Finally, as the Secretary-General noted in his report of 25 October 1996 (A/51/557), UNHCR has supported community projects in Bosnia and Herzegovina through local non-governmental organizations, including Žena, Žena 21, Stope Nade, Bosfam and Plavi Most. These projects have provided various types of assistance to victims of rape and sexual violence.

C. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

13. The International Tribunal was established by the Security Council by its resolution 808 (1993) of 22 February 1993. It is mandated to prosecute serious violations of humanitarian law perpetrated in the former Yugoslavia since January 1991.

14. In accordance with articles 2 to 5 of the Statute of the Tribunal, the Office of the Prosecutor is to investigate and prosecute sexual assaults as serious violations of international humanitarian law. That mandate is underlined by the Secretary-General in paragraph 11 of his report submitted pursuant to paragraph 2 of Security Council resolution 808 (1993) (S/25704), in which he recalled that the Council had condemned the practice of "ethnic cleansing" and the massive, organized and systematic detention and rape of women, and reaffirmed that those who commit or have committed or order or have ordered the commission of such acts will be held individually responsible in respect of such acts. Furthermore, article 5 (g)

of the Tribunal's Statute includes rape as a crime against humanity.

15. The report of the Secretary-General of 25 October 1996 (A/51/557) accurately depicts the administrative and procedural functioning of the Office of the Prosecutor. During the intervening period a number of notable events have occurred.

16. In December 1996, the Office of the Prosecutor successfully concluded the prosecution of Duško Tadić, a Bosnian Serb. During the case-in-chief, the Prosecution introduced evidence of rape and sexual mutilation through witness testimonies. In May 1997, the Trial Chamber rendered its decision. Tadić was convicted, *inter alia*, of cruel treatment, a violation of the laws or customs of war, inhumane acts and crimes against humanity based upon acts of sexual violence.

17. In March 1997, the Tribunal commenced a case against four Bosnian Muslim men accused of committing serious violations of international law against Bosnian Serb civilians at the Celibici detention camp. The Prosecution has introduced testimony concerning rape and other sexual abuse inflicted upon female and male detainees to substantiate charges of rape and torture alleged in the indictment. A decision is expected from the Trial Chamber in 1998.

18. While it did not focus specifically on events in the former Yugoslavia, in March 1997 the Prosecutor convened a Round Table on Crimes of Sexual Violence in Arusha, the seat of the International Criminal Tribunal for Rwanda. The participants consisted of staff members from the Office of the Prosecutor in The Hague and Kigali. Discussion focused on appropriate investigative procedure and witness protection issues, as well as the development of the offence of sexual violence under international law. The Prosecutor has scheduled a second round table on sexual violence for October 1997.

19. During 1997, the Investigation Unit of the Office of the Prosecutor has continued to amass evidence of rape, sexual torture, sexual abuse and other forms of sexual assault that occurred in the former Yugoslavia during the war. Although charges of sexual violence are not contained in the indictments issued during the period from July 1996 to September 1997, the Prosecutor expects to include such evidence in future indictments.

III. Concluding remarks

20. In contrast to the situation during the war years, incidents of rape are no longer reported as a widespread phenomenon in the former Yugoslavia. It must be remembered, however, that reports of sexual assault are difficult to obtain given the reluctance of victims to describe such experiences since they implicitly carry with them prospects of social stigma and fear of reprisals.

21. Although the international community has responded to the need for investigation, principally through the activities of the Tribunal, continuing attention must be given to preventive and curative measures. Since the situation in many parts of the former Yugoslavia remains unstable, it will be necessary for the international community to remain vigilant and to continue to implement special protective measures for women and children. Programmes of protection and assistance for victims and witnesses should continue for the foreseeable future, as the effects of rape and sexual violence continue to traumatize the victims well beyond the act itself.

Notes

[1] See E/CN.4/Sub.2/1996/26.